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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	McBurney et al.	Art Unit:	1646
Serial No.:	09/530,884	Examiner:	Brannock, Michael T.
Filed:	August 29, 2000	Customer No.:	21559
Title:	THERAPEUTIC METHODS COMPRISING USE OF A NEUREGULIN		

Commissioner for Patents
Washington, D.C. 20231

REPLY TO ELECTION/RESTRICTION REQUIREMENT

In reply to the Examiner's Action mailed August 27, 2002 (Paper No. 15), Applicants elect a neuregulin polypeptide species comprising the C/D' segment set forth in Figure 8 (SEQ ID NO: 27), which reads on claims 1-6, 8, 10, 11, 22, 23, 27, 35, and 36, and stroke as the condition to be treated, which reads on claims 1, 5, 6, 8, 10, 11, 22, 23, 27, 35, and 36. The election is made with traverse.

Applicants have discovered that neuregulins, such as glial growth factor polypeptides (GGFs) comprising an EGF-like domain selected from the C, C/D, or C/D' segment (SEQ ID NOs: 22, 26, and 27, respectively), demonstrate neuroprotective effects when administered for the treatment or prophylaxis of certain neurological-related disorders, e.g., stroke, and brain injury, or ischemia.

The Election/Restriction Requirement

Claims 1-6, 8, 10, 11, 22, 23, 27, 35, and 26 are pending in the application and are subject to an election/restriction requirement. The Examiner asserts that the claims are directed to more than one species of the generic invention and are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1. Applicants respectfully traverse this election/restriction requirement for the following reasons.

The Examiner states that:

The [neuregulin] species...do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: each species appears to be structurally distinct and functionally divergent from each of the other molecules. Office Action, p. 4.

Applicants request reconsideration of the requirement that only one disclosed species of neuregulin polypeptide be elected. Applicants respectfully submit that election of a neuregulin polypeptide that comprises the C, C/D, or C/D' segment as shown in Figure 7, 8, or 9, respectively, of the specification, would not impose an undue burden upon the Examiner to search this generic species of neuregulin polypeptide. As required under PCT Rule 13.2, a polypeptide comprising the C, C/D, or C/D' segment would share a "special technical feature"; these segments are all EGF-like domains that contain the crucial biological activity of the polypeptide (i.e., binding activity for the appropriate receptor) and promote a neuroprotective effect when administered to a mammal suffering from or susceptible to stroke

(see, e.g., page 2, line 28, through page 3, line 11, of the specification). Thus, a search sufficient for polypeptides comprising these three polypeptide segments would constitute a complete search of Applicants' invention and would not be unreasonable. For this reason, the restriction requirement may be withdrawn.

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CONCLUSION

Applicants respectfully request that the election requirement be withdrawn and that a neuregulin polypeptide that comprises the C, C/D, or C/D' segment be examined together.

Enclosed is a petition to extend the period for replying for five months, to and including February 27, 2003 and a check in payment of the required extension fee. If there are any charges or any credits, please apply them to Deposit Account No. 03-2095.

Respectfully submitted,

Date: February 27, 2003

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